Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	
	)	

Reply Comments of the

Regulatory Commission of Alaska

Date: June 2, 2008

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

Reply Comments of the Regulatory Commission of Alaska

The Regulatory Commission of Alaska appreciates an opportunity to respond to the Federal Communications Commission (FCC) Notices of Proposed Rulemaking on reform of the high-cost universal service fund (USF NPRM, FCC 08-22), competitive eligible telecommunications carrier issues (CETC NPRM, FCC 08-4), and reverse auctions (Auction NPRM, FCC 08-5), each released January 29, 2008.

Table of Contents

I. Introduction

The issues before the FCC are of great importance both on a national level and to the individual states. We recommend that to the extent the FCC believes that further policy development is necessary on any of these issues, that the FCC refer such policy issues to the Federal-State Joint Board on Universal Service.

II. Reverse Auction Approach

1. Reverse Auctions should not be employed for the Provider of Last Resort Fund.

We agree with the comments of the Oklahoma Corporation Commission that there is no need and it is undesirable to employ a reverse auction approach for providers of the last resort. We also agree with AT&T Corp. and the Alaska Telephone Association that the reverse auction concept creates layers of unanswered questions about the impact to a losing incumbent local exchange carrier's obligation to serve if it is not selected the auction winner. We agree with the Wyoming Office of Consumer Advocate that the mere fact that a winner is an Eligible Telecommunications Carrier (ETC) does not mean that such a carrier is able and willing to be the provider of last resort in an area without assistance from incumbents. For most rural areas of Alaska, the incumbent is the only local exchange carrier with ubiquitous facilities. As a result there would be no second bidder in an auction with the capability of providing ubiquitous local exchange service over its own facilities for most of our rural areas.

We view as impractical and potentially disruptive any approach that would require the incumbent to sell off assets to a winning second bidder in order to allow the bidder to meet its ETC obligations. As stated by NASUCA:

> It is unreasonable to think that the FCC can orchestrate the auction of existing high-cost rural territories currently served by incumbents who have invested billions of dollars to provide quality services to their customers, and have carrier of last resort ... responsibilities in those areas, without causing irreparable harm to the rural customers who were promised universal availability of quality communications services at affordable and reasonably comparable rates by the 1996 Telecommunications Act.[1]

Consequently, we do not support the FCC adopting any plan for reverse auctions for the providers of last resort.

III. CETC Funding Approaches

2. The FCC Should Eliminate the Identical Support Rule.

We recently initiated a state proceeding that could potentially cover many of the same issues now before the FCC (RCA Docket R-08-03) As a result, it is possible that after review of a detailed state record we may take a different approach regarding our state universal service fund than we do here regarding the federal universal service fund. However, our review of the issues so far suggests to us that the identical support rule is not in the public interest in light of the significant growth in the federal universal service fund and the fact that the rule bears no direct relationship to the amount of money wireless or wireline CETCs

[1] NASUCA Auction Comments at 2.

have invested in rural and other high-cost areas of the country. We agree with those commentors that believe the identical support rule should be eliminated.

We take no position at this time as to what mechanism should replace the identical support rule, but believe that an analysis of the CETC's own costs would appear a viable option worth further review.

IV. General Universal Service Reform Issues

3. While state participation is critical for successful operation of the universal service reforms contemplated by the FCC, recognition must also be given to state resource limitations.

We designate eligible telecommunications carriers and oversee local exchange and intrastate interexchange carrier services and operations in Alaska. We have the statutory obligation to ensure that regulated utilities offer rates that are "just and reasonable".[2] We have a statutory obligation to ensure that public utilities furnish and maintain "adequate, efficient, and safe services and facilities."[3] Based on our performance of those responsibilities, we are in general agreement with the comments of the Oklahoma Corporation Commission (OK Commission) that states are in the best position to assess the needs of their own consumers and states can perform a valuable role ensuring universal service dollars are used wisely.

If states are to perform these tasks in regards to CETCs that are not normally subject to state economic regulation, then the FCC should promulgate a specific set of rules to establish clear and detailed standards for the states to follow so that all parties involved understand their obligations.

[2] AS 42.05.381.
[3] AS 42.05.291.

If such rules are established, then they should include a clear provision allowing states to assess the cost of investigatory proceedings on CETCs, if such costs are recoverable under state law. Absent such a provision, allocation of state costs to CETCs may be contested and unpaid. Such an event would likely make it difficult if not impossible for us to perform the reviews contemplated in the NPRMs.

While we generally support the OK Commission's comments that states are in the best position to assess the needs of their own consumers, we recognize the funding realities faced by most state commissions in the country, including ourselves. Our Commission is subject to legislative oversight and must comply with statutes and administrative procedures that govern our potential expenditures. Our ability to conduct the tasks contemplated by the FCC in its NPRMs would depend upon availability of funding and resources at the state level and the potential burden of the tasks required.

A cost review of the eleven CETCs operating in Alaska, as contemplated in the CETC NPRM, would likely be very time intensive and potentially burdensome to this Commission, depending upon the frequency and level of detail required under the review. While we have not evaluated all of our options in this regard, significant questions exist as to whether we have the funding and staffing necessary to conduct annual CETC cost reviews for each of the CETCs or to conduct numerous statewide reverse auctions for determining support, especially given Alaska's widely-dispersed population. For example, if

individual auctions were conducted for each small community and village in Alaska, it would be necessary to hold over 200 auctions.[4]

We ask that the FCC consider ways to promote administrative efficiency for any mobility, broadband, and CETC support mechanisms it may contemplate. We suggest that any state review of CETC costs (after the initial review) occur every 3 or more years absent a showing of material change in condition. We also suggest that if state Commissions are to review CETC embedded costs, wireless CETCs should be required to comply with a uniform system of accounts of some kind to facilitate audit and review of support, evaluate cost trends and use of support, and ensure equal treatment of carriers. We recognize that there is an additional burden on carriers to comply with cost accounting procedures, but the ability to easily track costs would be in the public interest considering the millions of dollars in support that any one carrier might receive,.

We are also concerned that any CETC cost review will likely be lengthy, contentious, and expensive for the prospective CETC. We believe the FCC should consider whether a CETC's cost of such a state proceeding may be allocated for support under the federal system. We note that in Alaska, an incumbent is generally allowed to recover through regulated rates the reasonable costs of state proceedings, subject to an appropriate amortization period. CETCs may raise the same argument as to the legitimacy of including their state

[4] There are about 200 small rural Alaskan communities and villages in Alaska under 1000 lines. It is probable that due to small size, remoteness, and high costs, many if not all of these locations will require support for both infrastructure and operating costs.

proceeding costs when determining federal universal service support. Guidance on this issue may reduce future dispute and potential litigation.

4. It is critical that the FCC set timelines for actions delegated or assigned to the states.

The FCC contemplates assigning to the states various responsibilities, many of which may be very time intensive. Our ability to effectively and reasonably conduct these federal responsibilities will be affected by an Alaska statute that directs how long we may take to conclude a review. We are bound by a 180 day deadline from the date of filing for any state review that is not otherwise subject to a state or federal timeline.[5] This deadline applies from the date a filing seeking our review is made, and regardless of whether the filing is complete. We believe that a 180 day timeline would be woefully inadequate to conduct many of the complex state tasks contemplated in the NPRMs. We therefore believe it is critical for the FCC to establish appropriate deadlines for procedurally processing and concluding any tasks that may be assigned to the states. We suggest that in the case of the first review of CETC cost data, the FCC mandate that a state commission conclude its review within 15 months from the date of a complete filing. For subsequent reviews, a 12 month deadline may be sufficient.

[5] AS 42.05.175(i) states in relevant part: "In adjudicated docket matters that come before the commission under state law or federal law and are not subject to a timeline under federal law or (a)-(e) of this section, the commission shall issue a final order not later than 180 days after the filing of an initiating petition."

5. *The universal service funding levels contemplated by the FCC may be insufficient.*

We are in general agreement with the Wyoming Office of Consumer Advocate and the Missouri Public Service Commission that it may be unrealistic to expand the scope of the fund to include additional service obligations, such as broadband services, while assuming that no increase in the size of funding will be necessary.

6. *The allocation of Broadband and Mobility Funds to each state must consider costs of service and not simply the number of unserved customers.*

The FCC seeks comments on the Joint Board proposal to use a form of "block grant" approach under the Mobility and Broadband Funds. Funds would be allocated to the states and then awarded by designated state agencies to finance particular construction projects or operations of broadband and mobility providers.[6] The success of such an approach is directly dependent upon whether the algorithm used to determine each state's support level is reasonable.

No specific algorithm for allocating Mobility dollars per state is proposed through the NPRM, but it is proposed that one input factor may be the number of residents of each state who cannot receive a strong and reliable wireless signal at their residence.[7] Similarly under the Broadband fund, no specific algorithm for allocating broadband dollars per state is proposed, but the number of

[6] Joint Board Recommended Decision (JB RD) at 14.
[7] JB RD at 17.

residents of each state who are unable to purchase terrestrial broadband Internet service at their residences is suggested as a key input factor.[8]

Any approach that focuses on the number of unserved customers while ignoring costs of service and needed geographic coverage area is discriminatory to high-cost, low population states such as Alaska and should be rejected. Many rural communities and villages in Alaska have low population levels spread over vast geographic areas, which reduces the economy of scale and increases the per-unit cost to serve. An approach that considers only customer numbers would ignore these factors. Considering the number of unserved customers as a key funding factor also leads to unreasonable results. For example, according to the last census, the State of California has a population of roughly 36.5 million and a land area of 156,000 square miles. We have no statistics on how extensive unserved areas may be in California, but for sake of example, if 99% of all Californian's had access to Broadband services, that would mean that 365,000 Californians would not have the service. Even if half of all Alaskans (pop. 670,053) failed to have broadband service, California with 99% coverage would get more support than Alaska under an unserved customer numbers based approach. Our point here is not to suggest that California has no need of support. Rather, our point is that no state is necessarily fairly treated under an approach that allocates funding to states based on unserved customer counts as a key factor. The FCC should also not assume that all customers are the same. It likely will be substantially more difficult to serve unserved customers

[8] JB RD at 15.

in Alaska (due to the cost of service and the nature of construction in Arctic climates) than to provide service to unserved customers in California.

Similarly, Alaska spans a land area of 572,000 square miles. Much of that area includes mountains, glaciers, permafrost, and other geographic features that make service both expensive and difficult to provide. In contrast Rhode Island has a land area of 1,044 square miles. While Rhode Island has less than 1% of the land area of Alaska, it has a population of 1.1 M, almost double that of Alaska. A fraction of Rhode Island's land area may be unserved by wireless carriers, yet based on customer numbers alone, Rhode Island might be assigned material levels of support compared to Alaska which has a significantly greater land area to serve. Again, our intent here is not to suggest that Rhode Island is undeserving of support, only that unserved customer counts alone is not a good metric for determining a state's need for support. If a block grant approach is used, it must not ignore the scope and nature of the unserved geographic area involved. We therefore support the concepts raised by GCI Communication Corp. that a block grant formula should include a factor that considers the nature of the geographic area where residents cannot receive reliable service, including such factors as low population density, lack of road access, and geographic terrain. As indicated earlier, we also believe cost of service to be a critical factor for consideration.

A reasonable and fair block grant formula is critical. Failure to provide adequate funding is contrary to the sufficiency requirements of the Act.[9] It also creates the potential that customers that remain without broadband internet or mobility services will continue to pay the tab to expand universal service that includes these services, while being required to continue to wait for broadband and mobility service themselves.

We also agree with the statement of the Missouri Public Service Commission (MoPSC) that when allocating funds among states, allocation should not be based on maintaining current funding levels but rather on the need and promotion of universal service principles. A block grant approach delinks the analysis of need from the amount of funding provided. This occurs because the analysis of the block grant amount occurs at the FCC level, while the detailed analysis of need and distribution of funding occurs at the State level (after award amounts are set). This raises significant questions regarding the sufficiency of funding.

7. The FCC should not restrict the means by which states provide for funding under any state matching state funds approach.

Part of the Joint Board's recommendation included a state matching fund provision. Any matching fund approach should allow states significant flexibility regarding the means by which the matching funds are derived. States do not all have the same options for funding, and individual states are in the best

[9] 47 U.S.C. 254(b)(5): "There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."

position to determine which of their available options is the most practical and reasonable based on their circumstances.

The FCC should not require that state matching funds be derived solely from a state's universal service fund or from consumer surcharges. Due to the relatively smaller size of Alaska's population, high cost of service, and potential changes that may occur in the near future, Alaskans face substantial surcharges on their telecommunications bills (including state and federal universal service surcharges, TRS surcharges, and network access fees such as the Subscriber Line Charge). Our state may be able to provide matching funds from other revenue sources which would not directly impact the size of the state's universal service fund requirement. We therefore request that the FCC avoid limiting a state's ability to explore a variety of funding options to provide for any state matching funds.

8. There should be separate wireless and wireline funds given the difference in service obligations, regulatory obligations, costs of provisioning, and nature of the delivered services.

We agree with those commentors who support separate wireless and wireline funding mechanisms. In recent applications for ETC status in Alaska, there has been significant controversy resulting from the FCC's existing ETC policies, which were developed assuming wireline and wireless services were fully competitive alternatives and the majority of customers did not view these services as substitutes for each other. For example, a key question that has come before us is whether it is in the public interest for a wireless ETC applicant to propose to meet its ETC service obligations by reselling wireline services. Such a question

would be resolved by implementing two separate funds. Separate funds would also resolve the question of how to promote expansion of mobility in areas that desire this service if a wireless ETC contends it may meet its ETC obligations solely by reselling wireline services. We also agree with many of those who have commented in this proceeding that there are significant cost differences between wireline and wireless systems as they deliver different products to consumers using substantially different networks. Under such circumstances, it makes sense that wireless and wireline networks should be supported through different support mechanisms.

If separate wireline and wireless funds are used, there may be a need in the wireline fund to have exceptions that allow the use of BETRs and similar wireless local exchange services. In areas of Alaska costs of service for traditional wireline local exchange service can be prohibitively expensive and we believe the ability to use BETRs and BETRs like services as a substitute for wireline should be available subject to agreement by the state commission. The need for commission agreement is critical. As indicated earlier, many consumers do not necessarily view wireless and wireline services as clear substitutes. Based on past dockets of investigation in Alaska, we have received numerous complaints from consumers regarding poor quality and lack of Internet access available on BETRs local exchange systems. Further, not all such wireless systems have been capable of timely meeting our State Modernization Plan requirements. We therefore request that, while there be an exception or waiver process to allow

wireless provision of local exchange service, any exemption be subject to state control.

9. ***It is critical that Alaska rural areas have access to broadband services at rates and service quality comparable to urban areas of the nation. Federal funding should be available for this purpose.***

In many urban areas of the nation, broadband access to the Internet is commonly available at reasonable rates. Consumers have come to rely on the benefits associated with the Internet, including access to government websites, educational and commercial opportunities, and access to vast information resources.

Ensuring nationwide availability of broadband is a laudable goal. However, in many Alaska rural areas access to the Internet is limited due to a variety of factors, including economic infeasibility. Limited customer bases and high costs of infrastructure, maintenance, and transport often hinder the availability of broadband services in rural Alaska. Funding broadband Internet access would help in this regard and achieve many public interest goals.

We believe that funding broadband would promote economic development, increase employment and educational opportunities, facilitate access to health, social services and government, and provide many other benefits to the numerous isolated and remote areas of Alaska. This is especially important in light of the remoteness of many Alaska rural communities and villages and the lack of road access throughout much of the state. We therefore support federal funding for broadband services. Funding should be adequate for this purpose and not

limited by artificial constraints in efforts to maintain total universal service funding at current levels.

Any broadband program should take into consideration that broadband access should be available at a speed, quality, and price that is comparable to that found in urban areas of the nation. To do otherwise would be inconsistent with basic principles of the Telecommunications Act of 1996 that provide:

> 47 U.S.C. 254(b)(2): Access to advanced telecommunications and information services should be provided in all areas of the Nation.[10]

> 47 U.S.C.254(b)(3): Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[11]

We recommend the FCC work in conjunction with the recently reconstituted Federal-State Joint Conference on Advanced Services in efforts to ensure comparability of services and in addressing other broadband issues.[12] We believe Joint Conference members would provide an important contribution towards developing minimum service standards and comparable rate standards for the proposed broadband program.

---

[10] 47 U.S.C. 254(b)(2).
[11] 47 U.S.C. 254(b)(3), (emphasis added).
[12] See CC Docket No. 99-294, Order, FCC 08-134, released May 22, 2008.

10. While designing a broadband and wireless fund to pay for investment is a good first step, support should be provided for ongoing costs of service in areas that are especially uneconomic to serve.

In general, we support efforts that would promote expansion of wireless services into unserved communities. It is possible that the proposal by the Joint Board to provide support primarily for infrastructure would assist in that goal. However we also agree with the concerns of the Oklahoma Corporation Commission, GCI[13], and the Maine, Wyoming and Vermont Commissions[14] that in many cases, sparse population, remoteness, or small subscriber bases may make it uneconomical for wireless carriers to continue to provide service after initial construction is complete.[15] Wireless carriers may choose never to serve such areas. We support those proposing that if the mobility fund is dedicated to infrastructure investment in unserved areas, there be an exception to allow additional funds for operating expenses for areas unusually uneconomic to serve due to sparse population, exceedingly high costs, remoteness, small subscriber bases, or other factors (such as lack of roads and difficult terrain). We believe the same exemption should apply to the broadband fund and for the same reason.

11. The FCC Should Consider Establishing Explicit Support for Local and Interexchange Carriers that Incur Unusually High Transport Costs to Serve Remote Rural Subscribers.

We generally concur with the comments of the Alaska Telephone Association; the Maine, Wyoming, and Vermont Commissions; and NECA that

---

[13] GCI Communication Corp., d/b/a General Communication Inc. d/b/a GCI (GCI).
[14] Maine PUC, ConnectME Authority, Wyoming PSC, and the Vermont DPS (Maine, Wyoming and Vermont Commissions).
[15] OK Commission Comments at 16; Maine Comments at 5; GCI Comments at 41.

there is merit in supporting the high costs of transport. Transport remains a critical function in the provision of service to customers.

Alaska is not served by a Bell Operating Company nor does Alaska have LATAs. Unlike the rest of the nation, local carriers in Alaska do not provide transport between exchanges except in certain urban areas. As a result, most areas of Alaska are not served by an ETC that provides both local and long distance services. Further Alaska's interexchange carrier of last resort, the provider of the transport function, would not qualify for ETC status under existing rules as it does not provide facilities-based local service. At the same time Alaska faces high transport costs due to its dependency upon expensive satellite services to ensure Alaska rural areas have access to the public switched network. Alaska should not be denied potential benefit of universal service support for transport because of the historical manner in which services evolved in Alaska.

12. The rural and non-rural funds should not be unified at this time. Any inefficiencies in the non-rural funds should be addressed separately from the rural fund. There remains a rural difference.

Currently the FCC treats rural and non-rural companies differently when determining levels of high cost support. Rural companies remain under an embedded cost system. Non-rural companies, for the most part, receive support based on a forward-looking cost model. We recognize that the existing non-rural company system may require reform so as to more fairly treat rural areas served by non-rural companies, but unifying the rural and non-rural mechanisms is not necessarily appropriate.

We agree with the Alaska Telephone Association's comments that the rural and nonrural funds should remain separate. In general, moving rural companies to a system similar to the non-rural mechanism would likely be detrimental to small carriers in Alaska as there would be no assurance that adequate support would be provided. It will be difficult to develop a forward looking model to consider rural Alaska service needs. We also believe the Rural Task Force report demonstrates there is a rural difference. For example, due to their size and nature, non-rural companies typically have significantly greater economies of scope and scale then small rural companies. We disagree that there is sufficient commonality between a large non-rural company such as Qwest and a small rural company such as Bettles Telephone Company (with fewer than 200 subscribers) such that one support mechanism should apply to both.

To further illustrate this point, about 40 percent of all exchanges in Alaska serve under 100 access lines and 83 percent of the exchanges operate under 1000 access lines:

Alaska Access Lines	**Number of Exchanges**	**Percent of Total**
50,000 or more	1	0.4%
5,000 to 49,999	12	4.9%
1,000 to 4,999	28	11.5%
500 to 999	7	2.9%
250 to 499	22	9.0%
100 to 249	73	29.9%
50 to 99	52	21.3%
Under 50	49	20.1%
Total:	244	100.0%

We believe that while non-rural companies may have rural areas, that does not

make them comparable to rural companies in Alaska.

13. Do not merge the various rural high-cost support mechanisms at this time.

We support those commentors that generally advocate making few changes to the rural provider of last resort fund at this time. The FCC already has significant issues before it for resolution, and there has been no showing that wholesale changes to the rural provider of last resort fund require immediate action.

We also recommend that the FCC carefully evaluate unintended consequences if the rural high-cost mechanisms are merged. The separation of the existing high cost mechanisms serves a useful purpose. Separate funds clarify how each fund is to be used, assist in determining who may be eligible for the fund, and help evaluate whether the funds are addressing the problems they were designed to address. For example, currently there is no confusion over how much funding may be used to support rural local rates versus access reductions. However if the rural funds were merged into one fund, the jurisdictional dividing line regarding use of funds will be inevitably blurred.

The goals of each of the funds would also be blurred if they were merged. For example, if there was no distinction between the loop and switching support, there would be no ability to debate whether wireless ETCs should receive loop, but not local switching support. It would also be impossible to determine how

much support was potentially at stake if wireless ETCs were eligible for some, but not all rural funds.

More importantly, there is no mechanism for merging the rural funds, nor is there a conceptual outline for how this merger would occur. Until further details are known, it would be premature to assume that merger is in the public interest.

14. The definition of unserved areas should include Alaska rural villages and communities.

The mobility and broadband funds would be dedicated to service in "unserved areas". The Joint Board proposed that an "unserved area" would mean any area with a significant population density, but without wireless voice service, and may include "areas frequently used by the traveling public", such as highways.[16] For the broadband fund, continuing operating subsidies would be provided only where low customer density would suggest that a plausible economic case cannot be made to operate broadband facilities, even after receiving a substantial construction subsidy.[17]

Population density alone may be an inadequate indicator of merit for support. Remote, rural communities and villages in Alaska may have small numbers of customers concentrated in locally high population density areas that are costly to serve and should still be eligible for support. A determination of

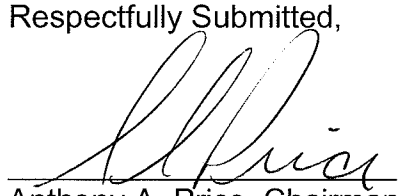
[16] JB RD at 16.
[17] JB RD at 12.

population density would to some extent be subjective as it would depend upon the area over which the population is measured.

V. Conclusion

We believe many of the proposals identified in the Joint Board recommendation and the three NPRMs merit further review, while others should be revised. We request the FCC consider our reply comments as it considers reforms.

Respectfully Submitted,



Anthony A. Price, Chairman
Regulatory Commission of Alaska
701 West 8th Avenue, Suite #300
Anchorage, Alaska, 99501-3459
Tel: (907) 276-6222